STATE OF ARIZONA

STATE OF ARIZONA FILED

DEPARTMENT OF INSURANCE

DEC 3 0 1996

DEPT. OF INSURANCE BY <u>Kall</u>

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In the Matter of the Withdrawal of:

Docket No. 96A-221-INS

BANK OF NEW YORK LIFE

ORDER

BANK OF NEW YORK LIFE) OR INSURANCE COMPANY, INC.)

(NAIC No. 91073),

Petitioner.

On December 24, 1996, the Office of Administrative Hearings, through Administrative Law Judge Richard N. Blair, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

- 1. The recommended findings of fact and conclusions of law are adopted.
- 2. The Petitioner may file its Articles of Dissolution with the Arizona Corporation Commission.
- 3. The Petitioner is entitled to withdraw from the business of insurance in the State of Arizona after the Department has received a copy of Petitioner's Articles of Dissolution certified as filed with the Arizona Corporation Commission.

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- 4. The sum of \$100.00 previously credited to the Insurance Examiners' Revolving Fund will be refunded to the Petitioner, pursuant to A.R.S. § 20-159.
- 5. The Petitioner will file its 1996 Annual Statement with the Department, together with all applicable fees, unless Petitioner files its Articles of Dissolution with the Arizona Corporation Commission on or before December 31, 1996.
- 6. The Petitioner will be denied the release of its \$100,000.00 statutory deposit in the above-entitled matter and that the denial will be without prejudice to the Petitioner to refile an application with the Department pursuant to A.R.S. § 20-588 for a refund of its \$100,000.00 statutory deposit.

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

The final decision of the Director may be appealed to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166.

EFFECTIVE this 2 day of December, 1996

John King //
Director of Insurance

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1	A copy of the foregoing mailed this 36 the day of December, 1996
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3	Charles Cohen, Deputy Director Gregory Y. Harris, Executive Assistant Director
4	Mary Butterfield, Assistant Director Catherine O'Neil, Assistant Director
5	Gary Torticill, Assistant Director Deloris Williamson, Assistant Director
6	Scott Greenberg, Business Administrator Rose McNabb, Solvency Support Unit Supervisor
7	Kurt Regner, Examiner Arizona Department of Insurance
8	2910 N. 44th Street, Suite 210 Phoenix, AZ 85018
9	Office of Administrative Hearings
10	1700 West Washington, Suite 602 Phoenix, AZ 85018
11	Thomas E. Haney
12	1421 E. Thomas Road Phoenix, AZ 85014
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14	V oly (P'
15	Kathy Linder
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Withdrawal of

No. 96A-221-INS

THE BANK of NEW YORK LIFE INSURANCE COMPANY, INC. (NAIC No. 91073),

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE

Petitioner.

HEARING: December 23, 1996

<u>APPEARANCES</u>: Thomas E. Haney, Esq., appeared on behalf of The Bank of New York Life insurance Company, Inc., Petitioner; and Kurt Regner appeared on behalf of the Arizona Department of Insurance.

ADMINISTRATIVE LAW JUDGE: Richard N. Blair

Based upon the record, the following Recommended Findings of Fact, Conclusions of Law and Recommended Order are made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 1. The Bank of New York Life Insurance Company, Inc. (the "Petitioner") has surrendered its Certificate of Authority to the Arizona Department of Insurance (the "Department").
- 2. The Petitioner has filed with the Department certified copies of Resolutions of the Petitioner's Board of Directors and of the Petitioner's sole shareholder authorizing Petitioner to withdraw from the insurance business by dissolution. The Petitioner has no insurance obligations owing to it, whether by policies written direct or by reinsurance ceded to it.
- 3. The Petitioner has filed its certified financial statement as of August 31, 1996 with the Department.

Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, Arizona 85007 (602) 542-9826

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- 4. On December 11, 1996, the Petitioner gave special notice to creditors and policyholders of the Petitioner, setting forth the date, place, nature and purpose of the hearing, as evidenced by the affidavit of publication. Petitioner also provided individual notice by mail to its known creditors, as evidenced by affidavit.
- 5. It is undisputed that the Petitioner published notice in the manner set forth in A.A.C. R20-6-303 less than 10 business days before the hearing in this matter.
- 6. The Petitioner has a \$100,000.00 statutory deposit with the Department and a \$100.00 deposit with the Insurance Examiners' Revolving Fund ("IERF").
- 7. The Petitioner has not complied with the provisions of A.A.C. R20-6-303, relating to the release of its \$100,000.00 statutory deposit because the Petitioner did not publish notice to all known creditors at least 10 business days before the hearing in this matter.

RECOMMENDED ORDER

The undersigned Administrative Law Judge recommends that:

- 1. The Petitioner may file its Articles of Dissolution with the Arizona Corporation Commission.
- 2. The Petitioner is entitled to withdraw from the business of insurance in the State of Arizona after the Department has received a copy of Petitioner's Articles of Dissolution certified as filed with the Arizona Corporation Commission
- 3. The sum of \$100.00 previously credited to the IERF be refunded to the Petitioner, pursuant to A.R.S. §20-159.
- 4. The Petitioner file its 1996 Annual Statement with the Department, together with all applicable fees, unless Petitioner files its Articles of Dissolution with the Arizona Corporation Commission on or before December 31, 1996.

5. The Petitioner be denied the release of its \$100,000.00 statutory deposit in the above-entitled matter and that the denial be without prejudice to the Petitioner to refile an application with the Department pursuant to A.R.S. § 20-588 for a refund of its \$100,000.00 statutory deposit.

Done this day, December 24, 1996.

Richard N. Blair Administrative Law Judge

Copy transmitted by mail
December _____, 1996
by _____; to:

John King Director Department of Insurance 2910 North 44th Street, #210 ATTN: Curvey Burton Phoenix, AZ 85018-7256